IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 5236 of 2005

Between:

K. Manohar reddy S/o. K. Samba Reddy
R/o. 3-43-145, Krishnapuri Colony, West Maredpally, Secunderabad-26

..... PETITIONER

AND

1 Recovery Officer, Employees Provident Fund Organisation,
Barkatpura, Hyderabad-500 027.
2 Authorised Officer,

O/o Regional Provident Fund Commissioner, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the writ of mandamus declaring the issuance of the notice, Ref.No.A.P./23015/Recovery Cell/2005 dt. 4-3-2005 of the 1st respondent consequent upon the Certificate No. 141/2004 of the 2nd respondent as arbitrary, illegal and unjust and consequently direct the respondents not to initiate recovery proceedings further thereto and pas s such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice

Counsel for the Petitioner: MR.R.K.SURI

Counsel for the Respondents: MR.R.N.REDDY (SC FOR EMPLOYEE'S PF ORG.)

The Court at the admission stage made the following :

-

-

-

-

-

ORDER:

-

This writ petition is filed aggrieved by the notice issued by the 1st respondent dated 04.03.2005 in pursuance of the order dated 31-07-2003 made under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 determining the liability of M/s.K.M.R. Explosives (P) Limited, Kunur village, towards P.F. contributions for the period from 3/1999 to 3/2003. Under the impugned notice, it is stated that the petitioner failed to pay the amount of arrears specified in certificate dated 26.05.2004, for recovery of the arrears determined under the order dated 31.07.2003, and therefore, he was directed to appear before the Recovery Officer on 16.03.2005, and to show cause as to why he should not be committed to the civil prison in execution of the recovery certificate. The petitioner states that he is not at all concerned with the Company against which the determination was made under Section 7-A of the Act. It is also stated that the Recovery Certificate was never served on him and he was not aware of its contents. It is also pleaded that the M/s.K.M.R. Explosives is no more in operation and the respondents initiate the proceedings against a dead unit and therefore he cannot be held responsible for the same.

I have heard the learned Counsel for both the parties and perused the material on record.

The learned Standing Counsel for the respondent, at the outset submits that the impugned notice being a show-cause notice , the writ petition is premature and liable to be dismissed on that ground alone.

As can be seen, the impugned proceedings is only a show cause notice under which the petitioner was asked to appear before the Recovery Officer on 16.03.2005 and to explain why he should not be committed to civil prison.

Learned counsel for the petitioner states that in pursuance of the said notice, the petitioner has appeared before the Recovery Officer and submitted his explanation on 16.03.2005. If that be so, it is for the 2nd respondent to consider the said explanation and pass appropriate orders in accordance with law. The interference of

this Court is not at all warranted at this stage. Accordingly, without expressing any opinion on merits, the Writ Petition is disposed of with a direction to the 2nd respondent to consider the explanation submitted by the petitioner, pass appropriate orders in accordance with law and communicate the same to the petitioner. Till such time, there shall be a direction to the respondents not to take any coercive steps against the petitioner and he shall not be detained in civil prison.

Accordingly, the Writ Petition is disposed of. No costs.

_____

16.03.2005

Note: Issue C.C. by 17.03.2005

(B/o)

Jsu

To

1 The Authorised Officer,

O/o Regional Provident Fund Commissioner,
Hyderabad.

2 The Recovery Officer,

Employees Provident Fund Organization,
Barkatpura, Hyderabad - 500 027.

3 2 CD copies